



**UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/532,415 09/22/95 MEGENS

J 53142/9086

EXAMINER
LISEHORA, J

35M1/0305

ART UNIT	PAPER NUMBER
3506	3

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DATE MAILED:

03/05/96

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-24 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-24 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).
12. ☒ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☒ been filed in parent application, serial no. 07/487892; filed on 3/6/1990.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

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Part III DETAILED ACTION

The assignee has not submitted "a statement specifying that the evidentiary documents have been reviewed and certifying that, to the best of assignee's knowledge and belief, title is in the assignee seeking to take the action" as required by 37 CFR 3.73(b). The statement is required in response to this Office Action.

The reissue oath or declaration filed with this application is defective for the following reasons:

- 1) it does not state that the person making the oath or declaration has reviewed and understands the contents of the specification, including the claims, "as amended by any amendment specifically referred to in the oath or declaration" as required by 37 CFR 1.63(b)(1).
- 2) it does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office "all information known to the person to be material to patentability as defined in § 1.56" as required by 37 CFR 1.63(b)(3).
- 3) it fails to state that the patentee claimed "more than he had the right to claim in the patent", and it fails to distinctly specify the insufficiency in the claims, 37 CFR 1.175(a)(3). Any change or departure from the original specification or claims represents an "error" in the original patent under 35 USC 251 and must be addressed in the original or supplemental reissue oath or declaration. Each insufficiency must be explained.
- 4) it fails to describe how the reissue overcomes the defects in the original patent; e.g., it fails to describe how amended claims 1-11 and the newly presented dependent claims differ from those of the original patent. See MPEP 1414.01.

Claims 1-24 are rejected as being based upon a defective reissue declaration under 35 U.S.C. § 251. See 37 C.F.R. § 1.175.

Applicant is reminded that any subsequent amendment to the specification and/or claims must comply with 37 C.F.R. § 1.121(e).

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Claim 2 is rejected under 35 U.S.C. 251 as being broadened in a reissue application filed outside the two year statutory period. Claim 2 has been broadened because "with air" has been deleted from the claim.

Claim 2 is rejected under 35 U.S.C. 251 as being a claim which has been improperly broadened in a reissue application made and sworn to by the assignee and not the patentee. Claim 2 has been broadened because "with air" has been deleted from the claim.

The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification is objected to under 35 U.S.C. § 112, first paragraph, as failing to adequately teach how to make and/or use the invention, i.e. failing to provide an enabling disclosure. The disclosure in column 2, lines 57-59 is not sufficient to teach one of ordinary skill in the art how to detachably connect the flexible body to the planar member with buttons.

Claim 21 is rejected under 35 U.S.C. § 112, first paragraph, for the reasons set forth in the objection to the specification.

The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "buttons" of claim 21 must be shown

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or the feature cancelled from the claim. No new matter should be entered.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 C.F.R. § 1.75(d)(1) and M.P.E.P. § 608.01(1). Correction of the following is required:

The term "engages" now found in claim 3 and the term "blower" now recited in claims 2 and 13-15 are not defined in the specification. Also, the term "air spring" from claim 7 can not be found in the specification.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 1, 8 and 12 are rejected under 35 U.S.C. § 103 as being unpatentable over Phillips et al (U.S. 3,659,899). Regarding Claims 1 and 12, Phillips et al teach all of the recited structure with the possible exception that the base (floor 65) is not inclined. It would have been obvious to incline the base to facilitate water drainage or to change the angle of incidence of the force supplied to the substantially planar member (section 63) by the inflatable flexible body (bag 66). Regarding Claim 8, it would have been obvious to provide a housing in a bottom portion of the recess in order to provide the side walls shown surrounding the bag 66 in Figure 6.

Claims 2, 6-7 and 13-21 are rejected under 35 U.S.C. § 103 as being unpatentable over Phillips et al (U.S. 3,659,899) in view of Smock (U.S. 3,784,255). Regarding Claims 2 and 13-15, it would have been obvious, in view of the location of lines 45 in Smock, to locate a blower such as the blower 50 of Phillips et al under the base (floor 65) of Phillips et al (U.S. 3,659,899) in order to locate the blower out of the way. Regarding Claims 6-7, the rings 37 of Smock (U.S. 3,784,255) are seen to constitute "a rigid bottom and a rigid top". Regarding Claims 16-17, it would have been obvious, in view of Smock, to make the periphery of the bag smaller than the periphery of the planar member in order to reduce the volume of air needed to operate the apparatus and/or to reduce the amount of material needed to form the bag 66.

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Regarding claims 18-19, note clamping ring units 37a of Smock (U.S. 3,784,255). Regarding claim 20, note rings 37. Regarding Claim 21, it would have been obvious, in view of the rings 37 of Smock, to use any known method of attachment to attach the bag 66 of Phillips et al (U.S. 3,659,899) to the section 63.

Claim 3 is rejected under 35 U.S.C. § 103 as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Scott (U.S. 3,822,861). Scott teaches in column 5, line 50, that nylon mesh reinforced polyethylene is an appropriate material for an inflatable bladder. Accordingly, it would have been obvious to use polyethylene for the inflatable bag 66 of Phillips et al since it is also an inflatable bladder.

Claim 4 is rejected under 35 U.S.C. § 103 as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Beer (AU 588734). Beer teaches on page 5, that a PVC-coated polyester fabric is a suitable flexible material for the inflatable bag 40. Accordingly, it would have been obvious to make the bag 66 of Phillips et al of PVC since it is an inflatable bag for essentially the same purpose as the bag 40 of Beer.

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Claims 9-11 and 22-24 are rejected under 35 U.S.C. § 103 as being unpatentable over Phillips et al (U.S. 3,659,899) as applied to claims 1, 8 and 12 above, and further in view of Pfleger et al (U.S. 3,902,213). It would have been obvious, in view of the lip 8 of Pfleger et al, to provide a similar lip on the section 63 of Phillips et al (U.S. 3,659,899) in order to provide an extension of the section 63.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references to Trowland (AU 579830) and Arvidsson et al (U.S. 4,470,578) have been cited because they relate to inflatable lift assemblies.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim Lisehora whose telephone number is (703) 308-2145.

102 2/24/96
JAL

February 24, 1996

Michael Buiz

MICHAEL POWELL BUIZ
PRIMARY EXAMINER
GROUP 3500

2/25/96

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

PTO Draftpersons review all originally filed drawings regardless of whether they are designated as formal or informal. Additionally, patent Examiners will review the drawings for compliance with the regulations. Direct telephone inquiries concerning this review to the Drawing Review Branch, 703-305-8404.

The drawings filed (insert date) 9/22/95

A. ☐ not objected to by the Draftsperson under 37 CFR 1.84 or 1.152.
B. ☒ objected to by the Draftsperson under 37 CFR 1.84 or 1.152 as indicated below. The Examiner will require submission of new, corrected drawings when necessary. Corrected drawings must be submitted according to the instructions on the back of this Notice.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings:

Black ink. Color.

☐ Not black solid lines. Fig(s) _____☐ Color drawings are not acceptable until petition is granted.

Fig(s) _____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

☐ Photographs are not acceptable until petition is granted.

Fig(s) _____

☐ Photographs not properly mounted (must use bristol board or

photographic double-weight paper). Fig(s) _____

☐ Poor quality (half-tone). Fig(s) _____

3. GRAPHIC FORMS. 37 CFR 1.84 (d)

☐ Chemical or mathematical formula not labeled as separate figure.

Fig(s) _____

☐ Group of waveforms not presented as a single figure, using common vertical axis with time extending along horizontal axis.

Fig(s) _____

☐ Individual waveform not identified with a separate letter designation adjacent to the vertical axis. Fig(s) _____

4. TYPE OF PAPER. 37 CFR 1.84(c)

☐ Paper not flexible, strong, white, smooth, nonshiny, and durable.

Sheet(s) _____

☐ Erasures, alterations, overwritings, interlineations, cracks, creases, and folds copy machine marks not accepted. Fig(s) _____☐ Mylar, velum paper is not acceptable (too thin). Fig(s) _____

5. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:

21.6 cm. by 35.6 cm. (8 1/2 by 14 inches)

21.6 cm. by 33.1 cm. (8 1/2 by 13 inches)

21.6 cm. by 27.9 cm. (8 1/2 by 11 inches)

21.0 cm. by 29.7 cm. (DIN size A4)

☐ All drawing sheets not the same size. Sheet(s) _____☐ Drawing sheet not an acceptable size. Sheet(s) _____

6. MARGINS. 37 CFR 1.84(g): Acceptable margins:

Paper size

21.6 cm. X 35.6 cm. (8 1/2 X 14 inches)	21.6 cm. X 33.1 cm. (8 1/2 X 13 inches)	21.6 cm. X 27.9 cm. (8 1/2 X 11 inches)	21.0 cm. X 29.7 cm. (DIN Size A4)
T 5.1 cm. (2")	2.5 cm. (1")	2.5 cm. (1")	2.5 cm.
L .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	2.5 cm.
R .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	1.5 cm.
B .64 cm. (1/4")	.64 cm. (1/4")	.64 cm. (1/4")	1.0 cm.

Margins do not conform to chart above.

Sheet(s) _____

Top (T) _____ Left (L) _____ Right (R) _____ Bottom (B) _____

7. VIEWS. 37 CFR 1.84(h)

REMINDER: Specification may require revision to correspond to drawing changes.

☐ All views not grouped together. Fig(s) _____☐ Views connected by projection lines or lead lines.

Fig(s) _____

Partial views. 37 CFR 1.84(h) 2

☐ View and enlarged view not labeled separately or properly.

Fig(s) _____

Sectional views. 37 CFR 1.84 (h) 3

☐ Hatching not indicated for sectional portions of an object.

Fig(s) _____

☐ Cross section not drawn same as view with parts in cross section with regularly spaced parallel oblique strokes. Fig(s) _____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

☐ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s) _____

9. SCALE. 37 CFR 1.84(k)

☐ Scale not large enough to show mechanism with crowding when drawing is reduced in size to two-thirds in reproduction.

Fig(s) _____

☐ Indication such as "actual size" or scale 1/2" not permitted.

Fig(s) _____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

☒ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (except for color drawings).Fig(s) 1-9

11. SHADING. 37 CFR 1.84(m)

☐ Solid black shading areas not permitted.

Fig(s) _____

☐ Shade lines, pale, rough and blurred. Fig(s) _____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)

☐ Numbers and reference characters not plain and legible. 37 CFR 1.84(p)(1) Fig(s) _____☐ Numbers and reference characters not oriented in same direction as the view. 37 CFR 1.84(p)(1) Fig(s) _____☐ English alphabet not used. 37 CFR 1.84(p)(2)

Fig(s) _____

☐ Numbers, letters, and reference characters do not measure at least .32 cm. (1/8 inch) in height. 37 CFR(p)(3)

Fig(s) _____

13. LEAD LINES. 37 CFR 1.84(q)

☐ Lead lines cross each other. Fig(s) _____☐ Lead lines missing. Fig(s) _____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

☐ Sheets not numbered consecutively, and in Arabic numerals, beginning with number 1. Sheet(s) _____

15. NUMBER OF VIEWS. 37 CFR 1.84(u)

☐ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) _____☐ View numbers not preceded by the abbreviation Fig.

Fig(s) _____

16. CORRECTIONS. 37 CFR 1.84(w)

☐ Corrections not made from prior PTO-948.

Fig(s) _____

17. DESIGN DRAWING. 37 CFR 1.152

☐ Surface shading shown not appropriate. Fig(s) _____☐ Solid black shading not used for color contrast.

Fig(s) _____

COMMENTS:

REMINDER

Drawing changes may also require changes in the specification, e.g., if Fig. 1 is changed to Fig. 1A, Fig. 1B; Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed. Please make such changes by 37 CFR 1.312 Amendment at the time of submitting drawing changes.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities—37 CFR 1.85

File new drawings with the changes incorporated therein. The application number or the title of the invention, inventor's name, docket number (if any), and the name and telephone number of a person to call if the Office is unable to match the drawings to the proper application, should be placed on the back of each sheet of drawings in accordance with 37 CFR 1.84(c). Applicant may delay filing of the new drawings until receipt of the Notice of Allowability (PTOL-37). Extensions of time may be obtained under the provisions of 37 CFR 1.136. The drawing should be filed as a separate paper with a transmittal letter addressed to the Drawing Review Branch.

2. Timing of Corrections

Applicant is required to submit **acceptable** corrected drawings within the three-month shortened statutory period set in the Notice of Allowability (PTOL-37). If a correction is determined to be unacceptable by the Office, applicant must arrange to have acceptable correction resubmitted within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, applicant should file corrected drawings as soon as possible.

Failure to take corrective action within set (or extended) period will result in **ABANDONMENT** of the Application.

3. Corrections other than Informalities Noted by the Drawing Review Branch on the Form PTO 948

All changes to the drawings, other than informalities noted by the Drawing Review Branch, **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.